

<b>JANICE SMALL,</b>	)	<b>AGBCA No. 2005-120-1</b>
	)	
Appellant	)	
	)	
<b>Representing the Appellant:</b>	)	
	)	
Janice Small, pro se	)	
102 Arthur Gillins Lane	)	
Moncks Corner, South Carolina 29461	)	
	)	
<b>Representing the Government:</b>	)	
	)	
Mark R. Simpson, Esquire	)	
Office of the General Counsel	)	
U. S. Department of Agriculture	)	
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Atlanta, Georgia 30309-2409	)	

### **RULING OF THE BOARD OF CONTRACT APPEALS**

March 16, 2005

**Before POLLACK, VERGILIO, and WESTBROOK, Administrative Judges.**

**Opinion for the Board by Administrative Judge WESTBROOK.**

This appeal was received at the Board January 4, 2005. Janice Small, of Moncks Corner, South Carolina (Ms. Small or Appellant), alleges that she purchased a house through a subsidy of what was then the Farmers Home Administration, now called Rural Development, an agency of the U. S. Department of Agriculture (USDA or the Government). Her complaint seems to be that repairs to the house's foundation are needed and a dispute exists as to whether the mortgagor or the mortgagee is responsible for repairs.

Because Appellant's allegations described causes of action outside the Board's limited jurisdiction, the Board declined to proceed with pleadings until the issue of jurisdiction was settled. By the docketing letter of January 5, 2005, the Government was asked to address that matter. Appellant was advised that she need take no further action at that time.

In a letter received at the Board on February 8, 2005, the Government responded that Ms. Small assumed a Rural Development note and mortgage in 1982 to finance the purchase of an existing house. She took out a second loan in 1990, apparently for a sewer repair. According to the Government, she has made an application for a third loan for needed repairs. When Ms. Small

received a copy of the Government's letter, she called the Board to dispute some of the statements therein. She was instructed to state her objections in writing. The Board has received no further communication from her.

The Board has jurisdiction as set out in 7 C.F.R. § 24.4. The primary jurisdiction involves appeals under the Contract Disputes Act of 1978 (CDA), 41 U.S.C. §§ 601-613, as amended. The Board also has jurisdiction to adjudicate appeals of final determinations arising under Standard Reinsurance Agreements with the Federal Crop Insurance Corporation (FCIC); appeals of certain suspensions and debarments; and appeals of Contract Work Hours Safety Standards Act (CWHSSA) issues. Without question the matters raised by Appellant's appeal letter do not involve the FCIC, suspensions or debarments, or CWHSSA issues. Thus, we must only examine the facts to see if CDA jurisdiction exists. The Board's CDA jurisdiction is limited to contracts for the procurement of tangible property or services (or disposal of real property). The only agreements between Appellant and an agency of USDA are mortgage loans apparently secured by real property. These are not procurement contracts within the meaning of the CDA. The Board has held that it lacked jurisdiction over an appeal arising out of a subordination agreement between a bank and the Farmers Home Administration because the agreement was not to procure property or services, but to foster and support crop production by inducing the bank through the subordination agreement to lend money to a farmer. West Chester Savings Bank, AGBCA No. 83-278-1, 84-1 BCA ¶ 17,077. The loan agreement in the instant appeal had the purpose of facilitating home ownership in the rural area. The agreement does not constitute the procurement of goods or services.

The facts as alleged in the notice of appeal and as amplified by the Government's January 24, 2005 letter do not describe issues over which this Board has jurisdiction.

### **RULING**

The appeal is dismissed for lack of jurisdiction.

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**ANNE W. WESTBROOK**

Administrative Judge

**Concurring:**

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**HOWARD A. POLLACK**

Administrative Judge

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**JOSEPH A. VERGILIO**

Administrative Judge

**Issued at Washington, D.C.**

**March 16, 2005**